

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)
)
)
v.) **NO. 12-CR-40026-FDS**
)
JOHN J. O'BRIEN, ET AL.)

**MOTION TO FILE RESPONSE TO COURT ORDER
EX PARTE AND UNDER SEAL**

The defendants, William Burke and John J. O'Brien, respectfully request leave to file their response to the Court's order regarding the motion for recusal under seal and *ex parte*. As grounds, Burke and O'Brien state that the response discusses defense trial strategy. Revealing such strategy to the government prematurely would violate the defendants' right to due process and a fair trial under the Fifth and Sixth Amendments. *Cf. In re Boston Herald, Inc.*, 321 F.3d 174 (1st Cir. 2003) (quoting *United States v. Gonzales*, 150 F.3d 1246 (10th Cir. 1998) for the proposition that there is a "unique danger" inherent in making CJA voucher and reimbursement documentation public because it could "'reveal the strengths and weaknesses of a defendant's case and his or her trial strategy, including possible defenses, witnesses, and evidence to be used at trial").

Respectfully submitted,
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by his attorney,

/s/ John Amabile
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JOHN J. O'OBRIEN
by his attorneys

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Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on January 21, 2014.

/s/ John Amabile